

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Angela Lynn Mertz
1008 Kaweah
Visalia, CA 93277

Registered Nurse License No. 463920

Respondent.

Case No. 2007-259


OAH No. N2007070436

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on March 27, 2008.

IT IS SO ORDERED February 27, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
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In the Matter of the Accusation Against:

ANGELA LYNN MERTZ, aka
ANGELA LYNN MINAUDO,

Registered Nurse License No. RN 463920

Respondent.

Case No. 2007-259

OAH No. N2007070436

PROPOSED DECISION

On October 3, 2007, in Sacramento, California, Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Jessica M. Amgwerd, Deputy Attorney General.

Respondent, Angela Lynn Mertz, represented herself.

Evidence was received. The record remained open to permit respondent to submit employment records and references and to permit the parties to file closing briefs. On October 24, 2007, complainant submitted a closing brief and attachments, which were marked collectively for identification as Exhibit 6. The attachments were forwarded on behalf of respondent and consisted of employment evaluations and letters of reference. On November 13, 2007, respondent submitted employment records, which were marked for identification as Exhibit C. The matter was submitted and the record closed on November 13, 2007.

FACTUAL FINDINGS

1. On April 10, 2007, complainant and petitioner Ruth Ann Terry, M.P.H., R.N., made the Accusation in her official capacity as Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs, State of California. Respondent timely requested a hearing by filing a Notice of Defense. A hearing was held pursuant to Government Code section 11505.

2. On March 31, 1991, the Board issued Registered Nurse License Number RN 463920 to respondent. At all times relevant the license was in full force and effect.

3. On April 13, 2006, in the Superior Court of California, County of San Joaquin, respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of any Alcoholic Beverage or Drug, or Under their Combined Influence), a misdemeanor. Respondent was sentenced to serve seven days in jail and pay fines and assessments. She was placed on conditional probation for a term of three years, until April 2009. She was ordered to participate in a county-approved alcohol program for three months and to submit to drug and alcohol testing.

4. Respondent's conviction arose from her conduct on January 11, 2006. She had taken multiple prescription medications, including Ativan, Norotin, Soma, Vicodin and Lexipro, for anxiety and sciatica pain. She drove her vehicle while under the influence of these medications; and drove up on a sidewalk, colliding with a basketball hoop. She continued driving and collided with another vehicle. The four children and driver in the other vehicle sustained minor injuries.

5. Driving under the influence of narcotics is a crime of moral turpitude that is substantially related to the qualifications and duties of a registered nurse. Respondent endangered the lives and safety of others by her conduct, and in fact did cause injury and property damage.

6. Respondent did not attempt to excuse her conduct or deny she had been driving under the influence of medications. She explained that the conduct that gave rise to her conviction was a unique event in her life and was due to significant life stresses. She had worked from 2000 through 2005 as a nurse at Sutter Hospital in Tracy. She, her husband, her mother and her five children moved to Oregon at her husband's insistence. He stayed in California to sell their house. She took a position in Roseburg Oregon at Mercy Medical center, as Director of Emergency Room. In December of 2005, respondent's mother died in respondent's home. Her husband had not yet moved to Oregon. He insisted that she and the family return to California. She reluctantly resigned her position and returned to California only to find that he had a "mistress". Shortly thereafter, he filed for divorce.

7. For a few years prior to her conviction, respondent had been battling back pain and sciatica from a work related injury. She had been prescribed pain medications, which she used judiciously before and after work. She became depressed over the loss of her mother, the multiple moves, and her husband's infidelity. When she returned to California from Oregon a Tracy physician placed her on disability and prescribed Ativan for her stress. The day of her driving under the influence arrest, she had been crying and distraught and had not taken into account the amount of medications she had consumed.

8. After her arrest, respondent immediately stopped using Ativan and continued counseling with Robert O. Bailey M.F.T. Mr. Bailey wrote a letter dated September 27, 2007, in which he explained that respondent had been working with him for "many years" on personal growth issues. He has worked with her on developing coping mechanisms, especially in respect to the death

of her mother and divorce. He wrote that he was familiar with her nursing skills and that she was an excellent nurse who had "compartmentalized" her personal issues well. He believes that she is emotionally ready to return to work.

9. Respondent has an excellent work history. She submitted numerous letters from co-workers and supervisors and performance evaluations from employers. All attest to her superior nursing skills and her professionalism. Respondent has recently secured a position as a charge nurse at Manteca Rehabilitation Center.

10. Although respondent has not completed her probationary term, or had her criminal conviction set aside, she has complied with the terms and conditions of her criminal probation, including completion of a drug/alcohol program and random drug testing. She has also submitted to drug testing in applications for employment. Her drug testing has been negative.

11. Respondent was a credible witness. She was contrite and showed resolve never to place herself in the type of situation which led to her conviction. Her recklessness stemmed from a unique set of events. She voluntarily removed herself from the practice of nursing while she worked on her problems and coping skills in counseling.

Costs

12. The parties were advised that the Administrative Law Judge would take evidence relating to the factors set forth in *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32. The parties were advised that these factors would be considered in determining the reasonableness of costs. These factors include; whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct.

Complainant established that the reasonable costs of investigation and prosecution of this matter were \$1,976.25. Complainant established that the scope of the investigation was appropriate to the alleged misconduct.

Respondent established that she supports three minor children and has not worked until her recent employment in October. She is able to pay costs in installment payments.

LEGAL CONCLUSIONS

1. Cause exists to subject respondent's license to disciplinary action under Business and Professions Code¹ section 2761, subdivision (f), in that she was convicted of a crime substantially related to the qualifications, functions and duties of a registered nurse, as set forth in the Factual Findings.

2. Cause exists to subject respondent's license to disciplinary action under Business and Professions Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (c), in that she was convicted of a crime involving the consumption of drugs, as set forth in the Factual Findings.

3. Cause exists to subject respondent's license to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (b). As set forth in the Factual Findings, respondent used drugs to the extent and in a manner dangerous or injurious to herself and others.

5. Pursuant to section 125.3, and Factual Finding 12, complainant is entitled to reimbursement from respondent for the reasonable costs of investigation and prosecution of this matter in the sum of \$1,976.25.

6. Respondent's evidence of rehabilitation was weighed and balanced against the severity of her conviction. Respondent has made clear progress in restoring her emotional stability. The public would be duly protected, provided her license was placed probation with terms and conditions designed to ensure her continued sobriety.

ORDER

Registered Nurse License Number RN 463920 issued to respondent Angela Lynn Mertz is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years on the following conditions.

1. TERMS and CONDITIONS of PROBATION

SEVERABILITY CLAUSE - Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

¹ All statutory references are to the California Business and Professions Code unless otherwise indicated.

(1) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

(3) REPORT IN PERSON - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he or she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he or she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, “engage in the practice of registered nursing” may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent’s probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent’s level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

(11) COST RECOVERY - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$1,976.25. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(12) VIOLATION OF PROBATION - If a respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) LICENSE SURRENDER - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his or her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

3. Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
4. One year for a license surrendered for a mental or physical illness.

(14) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(15) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed

within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS -

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(17) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and

samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(18) MENTAL HEALTH EXAMINATION - The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.


If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(19) THERAPY OR COUNSELING PROGRAM - Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

2. COST RECOVERY

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$1,976.25. As set forth in condition 11 of the terms and conditions of probation, respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term. In the event respondent violates the terms or conditions of her probation to the Board or surrenders her license, she is ordered to pay the balance of the costs, within 10 days of the surrender or of the Board's revocation of license following a violation of probation.

Dated: Bealer 1/4/2007



ANN ELIZABETH SARLI
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART,
Supervising Deputy Attorney General
3 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7376
Facsimile: (916) 327-8643

7 Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2007-259

14 **ANGELA LYNN MERTZ, aka**
ANGELA LYNN MINAUDO
15 687 Simeon Court
Ripon, California 95366

A C C U S A T I O N

16 Registered Nurse License No. RN 463920

17 Respondent.
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19 Ruth Ann Terry, M.P.H, R.N ("Complainant") alleges:
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PARTIES

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 **License History**

25 2. On or about March 31, 1991, the Board issued Registered Nurse License
26 Number RN 463920 ("license") to Angela Lynn Mertz, also known as Angela Lynn Minaudo
27 ("Respondent"). The license will expire on June 30, 2008, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the
2 prescription, consumption, or self-administration of any of the substances
3 described in subdivisions (a) and (b) of this section, or the possession of,
4 or falsification of a record pertaining to, the substances described in
5 subdivision (a) of this section, in which event the record of the conviction
6 is conclusive evidence thereof.

7 **COST RECOVERY**

8 8. Code section 125.3 provides, in pertinent part, that the Board may request
9 the administrative law judge to direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Criminal Conviction)**

14 9. Respondent is subject to disciplinary action under Code section 2761,
15 subdivision (f), in that on or about April 13, 2006, in the Superior Court of California, County of
16 San Joaquin, in the case entitled, *People of the State of California v. Angela Lynn Mertz* (Super.
17 Ct. San Joaquin County, 2006, Case No. MM111710A), Respondent was convicted by the court
18 on her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (Drive
19 While Under the Influence of any Alcoholic Beverage or Drug, or Under their Combined
20 Influence), a misdemeanor. Said crime is substantially related to the qualifications, functions and
21 duties of a registered nurse.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Criminal Conviction Involving the Consumption of Alcohol and/or Drug)**

24 10. Respondent is subject to disciplinary action under Code section 2761,
25 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
26 subdivision (c), in that Respondent was convicted of a crime involving the consumption of an
27 alcoholic beverage and/or drug, as set forth in paragraph 9, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use an Alcoholic Beverage and/or Drug in a Manner Dangerous or Injurious)**


3 11. Respondent is subject to disciplinary action under Code section 2761,
4 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
5 subdivision (b), in that Respondent used an alcoholic beverage and/or drug to an extent or in a
6 manner dangerous or injurious to herself, any other person, or to the public, as set forth in
7 paragraph 9, above.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number RN 463920
12 issued to Angela Lynn Mertz, also known as Angela Lynn Minaudo;
13 2. Ordering Angela Lynn Mertz, also known as Angela Lynn Minaudo, to
14 pay the Board the reasonable costs of the investigation and enforcement of this case pursuant to
15 Code section 125.3; and,
16 3. Taking such other and further action as deemed necessary and proper.
17

18 DATED: 7.10.07

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20 
21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant